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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 106 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26/02/2004 in WP NO :13784 OF 1992 on the file of the High Court.)

Between:

1 Mohammed Abdul Raheem (Died), as per LRs. Smt. Mohammadi Begum, W/o. late Mohd. Abdul Raheem, aged 52 years, Housewife, R/o. Nirmal, Adilabad District.
2 Smt. Shanwar Bagum, W/o. Late Mohd. Abdul Raheem, aged 57 years, Housewife,R/o. Nirmal, Adilabad District.

..... APPELLANTS

AND

1 The District Malaria Officer, N.M.E.P. Unit, Adilabad, Adilabad District.
2 The Presiding Officer, Labour Court Godavarikhani, Karimnagar District.

.....RESPONDENTS

Counsel for the Appellants: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: GP FOR MEDICAL HEALTH & FAMILY WELFARE .

The Court at the admission stage made the following :

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JUDGMENT : (Per the Honourable Sri Justice S. Ananda Reddy)

The Writ appeal is filed by the legal heirs of the workman in whose favour an award was passed by the Labour Court in ID.No.149/91 dated 16-4-1992 for reinstatement.

One Mohammed Abdul Raheem, who died during the pendency of the writ petition is the workman.

The workman was originally engaged in the year 1963 and continued upto to 21-4-1966. Subsequently, he was discontinued/removed from service on certain alleged irregularities. Later, the workman approached the Labour Court. The Labour Court in turn after going through the contentions and recording the evidence, ordered reinstatement without back wages. Aggrieved by that, the writ petitioner-1st respondent herein filed W.P.No.13784 of 1992 on the ground that the workman has approached the Labour Court after a long lapse of time. Though an award was passed as early as on 16-4-1992, the writ petitioner-1st respondent did not either reinstate or comply with the provisions of section 17B of the Industrial Disputes Act. But, however, during the pendency of the writ petition, the workman died on 14-11-2001 and finally, the Writ petition was allowed by this Court on the ground of latches by an order dated 26-2-2004 setting aside the order of the Labour Court. Now, the legal heirs of the deceased workman have come up with the present appeal contending that when the award passed by the Labour Court, was operating in favour of the woman where reinstatement was ordered, the writ petitioner-1st respondent has neither reinstated nor complied with the provisions of Section 17B of the Industrial Disputes Act, which is mandatory. The non-compliance of the above provisions, was not considered by the learned single Judge. Therefore, the legal heirs of the workman are entitled for the benefits under the provisions of Section 17 B of the Industrial Disputes Act during the pendency of the writ petition i.e., from the date of award in favour of the workman, till it was set aside by an order of the learned single Judge.

The learned Counsel appearing on behalf of the workman contended that as the writ petitioner-1st respondent did not comply with the provisions of Section 17B of the Industrial Disputes Act, the legal heirs of the deceased workman, are entitled to

recover the amount payable in terms of the provisions of section 17 B of the Industrial Disputes Act.

The learned Counsel appearing on behalf of the writ petitioner-1st respondent however contended that the Government is prepared to reinstate the workman, if he is alive. But, no such offer was made during the pendency of the writ petition or complied with the provisions of section 17B of the Industrial Disputes Act.

Heard both sides and considered the material available on record.

Admittedly, the award was passed on 16-4-1992 in favour of the workman ordering reinstatement. The writ petitioner-1st respondent did not reinstate the workman in compliance with the award of the Labour Court. In fact, it is stated across the bar that even stay order was not obtained after more than 10 years during the pendency of the writ petition. It is only when the proceedings were initiated before the Labour Court for implementation of the award, the writ petitioner-1st respondent has obtained the stay after 10 years. Further, the provisions under section 17B of the Industrial Disputes Act, have also not been complied with, which is mandatory. In view of the non-compliance of the provisions of Section 17B of the Industrial Disputes Act, the workman is entitled to the benefits of the provisions under Section 17 B of the Industrial Disputes Act during the pendency of the writ petition, though ultimately the writ petition filed by the writ petitioner-1st respondent was allowed.

Under the above circumstances, the writ appeal is disposed of directing the writ petitioner-1st respondent to pay the amount payable in terms of the provisions of Section 17B of the Industrial Disputes Act to the Legal Representatives of the deceased workman. The said payment is directed to be complied with within a period of six weeks from the date of receipt of a copy of this order. However, it is made clear that the amount payable in terms of the provisions of section 17B of the Industrial Disputes Act, shall be as per the records that are available with the writ petitioner-1st respondent.

Accordingly, the writ appeal is disposed of. No costs.

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Justice T.Meena Kumari

Date : 07th February, 2005

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Justice S.Ananda Reddy

Dvs/Gurc.

Copies to:

1 The District Malaria Officer, N.M.E.P. Unit, Adilabad, Adilabad District.
2 The Presiding Officer, Labour Court Godavarikhani, Karimnagar District.

3. 2 CCs to the GP for Medical Health and Family Welfare, Govt. of

A.P. Hyderabad.(OUT)

4. Two C.D. copies.

THE HONOURABLE SMT. JUSTICE T.MEENA KUMARI

&

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A. No. 106 of 2005

(Judgment delivered by the Honourable Sri Justice S. Ananda Reddy)

07th February, 2005